IN THE HIGH COURT OF JUDICATURE OF BOMBAY

APPELLATE SIDE

CIVIL APPLICATION NO.3409 OF 2005

IN

FIRST APPEAL ST. NO.36111 OF 2003

Union of India & Anr. .. Applicants

versus

Jayantilal. B. Shah .. Respondent

...

Mr.Bhatija with Mr.R.C. Master & Mr.Y.S. Bhate for the applicants.

Mr.R. Morey i/b Vishwanath Talkate for the respondents

CORAM : Smt.Ranjana Desai &

A.P. Deshpande, JJ

DATED : 24th July 2006.

P.C.:

1. This civil application is for condonation of delay in filing the instant First Appeal.

2. We have heard the learned counsel for the applicant. He contended that impugned order is dated 13.5.2003. The order was not pronounced in the open Court. From the register maintained by the applicant it is seen that copy of the said order was received by the office of the applicant on 29.5.2003 and the instant First Appeal was filed on 24.9.2003. Our attention is drawn to section 35 of the Foreign Exchange Management Act, 1999. (the said Act for short) It requires the person aggrieved by any decision or order of the Appellate Tribunal to file an appeal in the High Court within sixty days from the date of communication of the decision or order of the Appellate Tribunal to him on any question of law arising out of such order. The proviso thereof states that the High Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.

3. The above dates indicate that the appeal was filed in this Court within 120 days from the date of

the receipt of the order. It is filed within the period extended by proviso to section 25 of the said Act. In our opinion in the Civil Application, the applicant has made out sufficient cause for not filing the appeal within 60 days from the date of receipt of the order. Hence for the reasons stated in the Civil Application, delay is condoned. However, in the circumstances of the case, the applicant shall pay costs quantified at Rs.500/- to the respondent. Costs shall be paid within a period of six weeks from today.

4. Civil Application is disposed of.

(Smt.Ranjana Desai)

(A.P. Deshpande)